

**MEMO ENDORSED****LAW OFFICE OF TEDD KESSLER, P.C.**

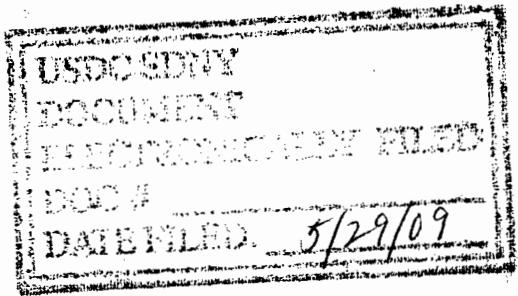
COUNSELORS AT LAW

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MAY 20 2009  
KELLY  
U.S. DISTRICT JUDGE

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May 21, 2009

United States Magistrate Judge Kevin Nathaniel Fox  
Daniel Patrick Moynihan United States District Courthouse  
500 Pearl Street  
Room 20A  
New York, New York 10007

Re: Frank Fazetta v. Vanguard Productions and J. David Spurlock  
Third-party action: v. Ellie Fazetta  
08 CIV 6670 (RJH) (KNF)

Dear Hon. Magistrate Judge Fox:

This office represents the plaintiff and third-party defendant in the above-cited matter.

This purpose of this letter is to request that my clients be excused from personally attending the settlement conference scheduled for June 15, 2009.

Frank Fazetta is 81 years of age and has sustained more than one dozen strokes. The strokes have compromised Mr. Fazetta's physical and mental abilities. Mr. Fazetta makes no business decisions. His business manager and wife, Eleanor Fazetta, has and continues to make business decisions for Mr. Fazetta and holds power of attorney for him. Ms. Fazetta, is ill too, apparently terminal and undergoing experimental chemotherapy. The treatment regimen depletes her physical strength and compromises her immune system. Therefore, her functioning is limited, she must restrict her physical activities, avoid stress and remain as isolated from others as much as possible. The Fazettas reside in the State of Pennsylvania.

United States Magistrate Judge Fox

Re: Frank Fazetta v. Vanguard Productions and J. David Spurlock

May 21, 2009

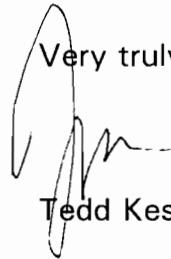
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It would be a tremendous burden for the Fazettas to appear in person at the settlement conference. Eleanor Fazetta has empowered me with authorization regarding settlement and is likely to be available by telephone, dependent upon her treatment regimen and schedule.

Due to the serious medical conditions of Frank Fazetta and Eleanor Fazetta, it is respectfully requested that they be excused from physically appearing at the settlement conference. The seriousness of their medical conditions and the limitations placed upon them is a motivating factor in seeking the settlement conference.

This letter is being provided to defense counsel by regular mail.

Thank you for your attention to this matter.

Very truly yours,  
  
Tedd Kessler

TK/hft

CC: Patrick Carroll, Esq.  
Leigh McMillan, Esq.  
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5/21/09

Based on the above, Mr. Kessler's clients need not appear in person for the settlement conference. If possible, Eleanor Fazetta should participate in the settlement conference via telephone.

SO ORDERED:



KEVIN NATHANIEL FOX, U.S.M.J.